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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,659	02/05/2004	Edward L. Taylor	A3,109	5570

7590 06/21/2005  
 Larry W. McKenzie  
 Walker, McKenzie & Walker, P.C.  
 6363 Poplar Avenue, Suite 434  
 Memphis, TN 38119-4896

EXAMINER
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MAMMEN, NATHAN SCOTT

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/772,659	TAYLOR ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nathan S Mammen	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/5/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

*ML*

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: The disclosure repeatedly refers to a "scrapper blade." It is believed that "scrapper" is a typographical error. As defined by Merriam-Webster's Collegiate Dictionary, 10<sup>th</sup> Ed., "scrapper" is a "fighter, quarreler." It is believed that "scraper" was intended.

Appropriate correction is required.

### ***Claim Objections***

2. Claims 1-4 are objected to because of the following informalities: The claims, like the specification, refer to a "scrapper blade." It is believed that the intended term was "scraper blade". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,213,165 to Dunn et al., cited by Applicant, in view of U.S. Patent No. 6,904,979 to Confoey.

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The Dunn '165 patent discloses a land plane comprising a main frame (40) and first (58) and second (60) wing frames. A first transverse scraper blade (71, 72, 73, 74) is mounted beneath the main and wing frames. The first transverse scraper blade has a gap (at 80) adjacent a second side (right side) of the main frame. A second transverse scraper blade (75, 76, 77) is mounted beneath the main and wing frames and is parallel to and spaced rearwardly from the first blade (parallel to portions 71, 72 of the first blade). What the Dunn '165 patent does not disclose is that the first and second scraper blades are led by a V-shaped scraper blade mounted at the front of the main frame. The Confoey '979 patent teaches that it is known in the art to provide a land plane with a V-shaped scraper blade (74) having a forward apex (73) leading a rear transverse scraper blade (77, 76). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the land plane of the Dunn '165 patent with the V-shaped scraper blade as taught by the Confoey '979 patent in order to initially spread the soil in the center of the land plane to improve the grading operation of the wider rear blades.

Regarding claims 2-3: Each of the transverse scraper blades is formed from at least three separate scraper blades. The gap in the first transverse scraper blade is formed between the main (72) and the second (73) scraper blades. The wing frames (58, 60) are pivotally attached to the main frame for movement between raised and deployed positions. Hydraulic cylinders (115) cause the wing frames to pivot.

Regarding claim 4: The Confoey '979 patent further teaches that to place a hydraulic cylinder (52 – see col. 4, lines 41-44) between the main frame and the hitch. It would have been obvious to provide the land plane of the Dunn '165 patent with the hitch arrangement taught by

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the Confoey '979 patent in order to provide greater control over the angle of attack of the leading scraper blades.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (571) 272-6991. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (571) 272-6998. The fax number for this Group is (703) 872-9306.

A handwritten signature in black ink, appearing to read 'N. Mammen', is positioned above the printed name.

**Nathan S. Mammen  
Patent Examiner  
Group 3600**

**NSM  
6/15/05**